

Serial No. 10/578,743
Atty. Docket No. P71140US0

REMARKS

The Office Action mailed October 8, 2008, has been carefully reviewed and by this Response, Applicant requests reconsideration of the Examiner's rejection of the claims. Claims 1-3 and 5-21 are pending in the application. Claims 1 and 16 are independent.

The Examiner rejected claims 1-3 and 5-21 under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,165,728 to Mayer in view of U.S. Patent No. 2,092,243 to Breese.

In regard to claims 1 and 16, the Examiner stated that Mayer discloses a dialyzer 1 in combination with a connector 15, but acknowledged that Mayer does not disclose a connector that slides perpendicularly to the axis of the dialyzer port. The Examiner stated, however, that since Breese discloses a connector that includes both a Hansen type coupling and a shift element that is displaceable between first and second positions perpendicularly to the direction of the lumen, that it would have been obvious to modify Mayer to replace the Mayer connector with the connector of Breese. In reaching this conclusion, the Examiner stated that "the references disclose these elements as art recognized equivalents". Applicant does not agree that this equivalence is, in fact,

Serial No. 10/578,743
Atty. Docket No. P71140US0

disclosed in the references or that it was recognized in the art and therefore requests reconsideration.

As discussed in Applicant's previous Amendment filed July 1, 2008, Breese style connectors have been known for over 70 years to be useful for various applications. However, in all that time it was not recognized by persons of skill in the field of hemodialysis that, with adaptation, the Breese connector could be used for a dialysate port that typically received a Hansen coupling. In the absence of specific evidence to the contrary, which the Examiner has not provided, the failure of skilled persons over the span of this many years to have recognized the "equivalence" of the Breese connector is clearly indicative of the non-obviousness of the present invention.

In further support of the non-obviousness of the claimed invention, Applicant points out that Mayer did not recognize the alleged "obviousness" of including a modified Breese style connector such as that claimed but, on the contrary, developed a completely alternative solution to the problem of coupling secondary components to a dialyzer. Specifically, Mayer teaches the modification of a Hansen coupling port to include external threads. As a result, Mayer teaches away from the present

Serial No. 10/578,743
Atty. Docket No. P71140US0

invention since the skilled person presented with the threaded solution of Mayer would hardly be prompted to return back, as a further modification, to the original unthreaded design. On the contrary, the solution of Mayer would make any further modification of the coupling port unnecessary.

In sum, persons of skill in the art did not recognize the Breese style connector as a solution to the need for coupling of both Hansen and secondary coupling components to a dialyzer. That the presently claimed connector may now be considered as an equivalent to that taught by Mayer *is known only from the disclosure of the present invention itself.*

For at least the foregoing reasons, claims 1 and 16 are not obvious in view of Mayer and Breese. Favorable reconsideration and allowance thereof is requested.

Claims 2, 3, 5-15 and 17-21 are also in condition for allowance as claims properly dependent on an allowable base claim and for the subject matter contained therein.

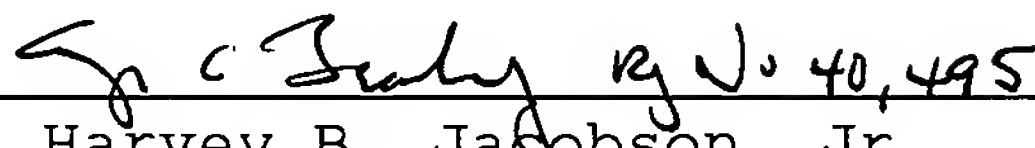
With this amendment and the foregoing remarks, it is respectfully submitted that the present application is in condition for allowance. Should the Examiner have any questions or comments, the Examiner is cordially invited to telephone the undersigned

Serial No. 10/578,743
Atty. Docket No. P71140US0

attorney so that the present application can receive an early
Notice of Allowance.

Respectfully submitted,

JACOBSON HOLMAN PLLC

By  reg. No. 40,495
for Harvey B. Jacobson, Jr.
Reg. No. 20,851

400 Seventh Street, N.W.
Washington, D.C. 20004-2201
Telephone: (202) 638-6666
Date: January 8, 2009
HBJ:SCB
R:\SBAILEY\2009\01-09\P71140US.amd.wpd